IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7350 of 2007()

CRIME NO.279/98 OF CHADAYAMANGALAM POLICE STATION

: PETITIONER/2ND ACCUSED

BABU, AGED 42, S/O.KARUNAKARAN,
KOODAMVENTHATHIL, MALOOR P.O., PATHANAPURAM.

BY ADV. SMT.VIVEEJA RAVEENDRAN

RESPONDENTS: COMPLAINANTS

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
CHADAYAMANGALAM POLICE STATION,
KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7350 of 2007

Dated this the 30th day of November, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations of having committed offence punishable under the Kerala Abkari Act. The crime was registered in 1998. The petitioner is the 2nd accused. Final report was filed and cognizance was taken by the learned Magistrate. Consequent to non availability of the petitioner, the case against him was split up. The case has later been transferred to the list of Long Pending Cases. Coercive processes have been issued by the learned Magistrate. The petitioner apprehends imminent arrest in execution of such processes issued by the court.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful or deliberate. He had no information about the pendency of the case at all. The petitioner is willing to surrender before the learned Magistrate. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore

prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-